

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 03-33186

FULTON BELLOWS & COMPONENTS, INC.  
f/k/a JRGACQ CORPORATION

Debtor

---

***PUBLISHED:***

In re Fulton Bellows & Components, Inc., 307 B.R. 896  
(Bankr. E.D. Tenn. 2004)

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 03-33186

FULTON BELLOWS & COMPONENTS, INC.  
f/k/a JRGACQ CORPORATION

Debtor

**MEMORANDUM ON DEBTOR'S MOTION TO AMEND ORDER ON  
"PROTECTIVE MOTION FOR RELIEF FROM AUTOMATIC STAY  
PURSUANT TO 11 U.S.C. § 362" FILED BY THE  
UNITED STEELWORKERS OF AMERICA, AFL-CIO-CLC**

**APPEARANCES:** WHATLEY DRAKE, LLC  
Glen M. Connor, Esq.  
Post Office Box 10647  
Birmingham, Alabama 35202-0647  
Attorneys for United Steelworkers of America, AFL-CIO-CLC

GREENEBAUM, DOLL & McDONALD, PLLC  
Lawrence R. Ahern, III, Esq.  
David W. Houston, IV, Esq.  
700 Two American Center  
3102 West End Avenue  
Nashville, Tennessee 37203  
Attorneys for Debtor

RICHARD F. CLIPPARD, ESQ.  
UNITED STATES TRUSTEE  
Patricia C. Foster, Esq.  
800 Market Street  
Suite 114, Howard H. Baker Jr. United States Courthouse  
Knoxville, Tennessee 37902  
Attorneys for United States Trustee

**RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE**

Before the court is the Debtor's Motion to Amend Order on "Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362" Filed by the United Steelworkers of America, AFL-CIO-CLC (Motion to Amend) filed by the Debtor on February 19, 2004. The Debtor requests modification of the court's February 9, 2004 Order denying the Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 filed January 9, 2004, by the United Steelworkers of America, AFL-CIO-CLC (Union). In the Memorandum on Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 accompanying the February 9, 2004 Order, the court found that the automatic stay sufficiently interfered with the operation of the Collective Bargaining Agreement between the Debtor and the Union, in violation of 11 U.S.C.A. § 1113 (West 1993), and therefore held that the arbitration of disputes concerning unilateral changes by the Debtor to the Union's attendance policy and medical insurance were not prohibited by the automatic stay. The Debtor now asks the court for an amended order, clarifying that any remedial award resulting from the arbitration of these disputes must be dealt with by the bankruptcy court in the claims resolution process.

The Union filed the USWA's Response to Debtor's Motion to Amend Judgment on March 4, 2004, arguing that the Motion to Amend should be denied because the court correctly analyzed the facts and correctly applied the law. The Union also argues that arbitration awards are not self-enforcing, do not carry the force of law, do not provide a means of execution or enforcement, and do not address matters such as priority or allowance of claims. However, the Union does concede that "[w]hile the Union will certainly argue that

a remedy contained in an arbitrator's award would reflect the appropriate remedy, whether injunctive or monetary, it would ultimately be for the [Bankruptcy] Court to determine the priority of the claim and the allowance (or not) of the claim.”

The court finds the Debtor's Motion to Amend to be well taken for the following reasons. The unilateral modification of medical benefits and the company's attendance policy, the actions that are the subject of the arbitration, occurred prepetition in March and April 2003. The court recognizes that while the resolution of these disputes does not fall within the definition of a core proceeding under 28 U.S.C.A. § 157(b) (West 1993), a claim arising from prepetition conduct is subject to the core jurisdiction of the bankruptcy court if it is parlayed into or involves an equitable and/or monetary award. Although these issues, in and of themselves, do not give rise to the claims resolution process, in the event that an arbitrator determines that the Debtor violated the terms of this Collective Bargaining Agreement with the Union and that a monetary award against the Debtor and in favor of the Union is appropriate, the nature of the action changes. At that point and under that scenario, the award of any monetary sum, if permissible under the Collective Bargaining Agreement, would serve to liquidate the Union's claim and, as such, would, it appears to the court, be prohibited by the automatic stay of 11 U.S.C.A. § 362(a) (6) (West 1993 & Supp. 2004).<sup>1</sup> The

---

<sup>1</sup> “[A] petition filed under section 301 . . . operates as a stay, applicable to all entities, of—

. . . .

(6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case[.]

11 U.S.C.A. § 362(a) (6).

court nonetheless finds it appropriate that the arbitration be allowed to proceed to its conclusion. Any monetary award would not be subject to enforcement by the Union, but would necessitate the amendment of its proof of claim, thus bringing into play the Bankruptcy Code's claims resolution process.

In accordance with the above, the court holds that in the event that arbitration of these prepetition disputes should allow the fixing of a monetary award against the Debtor, the automatic stay will be modified to allow the arbitrator to determine the amount of such award, but no further.

An order consistent with this Memorandum will be entered. Additionally, the February 9, 2004 Order will be vacated and an order consistent with this Memorandum and with the Memorandum on Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 filed February 9, 2004, will be entered.

FILED: March 11, 2004

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 03-33186

FULTON BELLOWS & COMPONENTS, INC.  
f/k/a JRGACQ CORPORATION

Debtor

**ORDER**

For the reasons set forth in the Memorandum on Debtor's Motion to Amend Order on "Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362" Filed by the United Steelworkers of America, AFL-CIO-CLC filed this date, the court directs the following:

1. The Debtor's Motion to Amend Order on "Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362" Filed by the United Steelworkers of America, AFL-CIO-CLC filed by the Debtor on February 19, 2004, is GRANTED.

2. The February 9, 2004 Order denying the Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 filed by the United Steelworkers of America, AFL-CIO-CLC on January 9, 2004, is VACATED. A superseding order will be entered.

SO ORDERED.

ENTER: March 11, 2004

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE**

In re

Case No. 03-33186

FULTON BELLOWS & COMPONENTS, INC.  
f/k/a JRGACQ CORPORATION

Debtor

**ORDER**

For the reasons set forth in the Memorandum on Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 filed on February 9, 2004, and in the Memorandum on Debtor's Motion to Amend Order on "Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362" Filed by the United Steelworkers of America, AFL-CIO-CLC filed this date, the court, having determined that the automatic stay does not prohibit the arbitration sought by the United Steelworkers of America, AFL-CIO-CLC by the filing of the Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 on January 9, 2004, directs the following:

1. The Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 is DENIED.

2. In the event arbitration of the disputes raised by the United Steelworkers of America, AFL-CIO-CLC in the Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362, filed on January 9, 2004, results in a finding adverse to the Debtor under the terms of which it will be appropriate for the arbitrator to award payment of a monetary sum by the Debtor, the automatic stay of 11 U.S.C.A. § 362(a)(6) (West 1993 & Supp. 2004) is MODIFIED to allow the fixing of such an award by the arbitrator, but no further.

3. This Order supersedes the February 9, 2004 Order entered with the supporting Memorandum on Protective Motion for Relief From Automatic Stay Pursuant to 11 U.S.C. § 362 filed the same date.

SO ORDERED.

ENTER: March 11, 2004

BY THE COURT

/s/ Richard Stair, Jr.

RICHARD STAIR, JR.  
UNITED STATES BANKRUPTCY JUDGE